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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,714	02/16/2002	John J. Barry	JJB-101A	2082
7590 12/09/2004			EXAMINER	
KENNETH P. GLYNN, ESQ. Glynn & Associates, P.C. 24 Mine Street Flemington, NJ 08822			MENDIRATTA, VISHU K	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/076,714

Applicant(s)

BARRY ET AL.

Examiner

Vishu K Mendiratta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez (5749580) in view of Burkett (4375889) and MacRae (94216966).

Claim 21,28,29: Lopez teaches a plurality of paths (100) having spaces (20,40 etc.), start and finish space (5), play icon (3:65-66), cards with events (105,110), die (3:50) and instructions /rules for playing the game (abstract).

Lopez teaches all limitations except that it does not teach two spinners for speed and alcohol levels.

Burket teaches a chance device demonstrating speed violation and alcohol level (col.6-7).

MacRae teaches a spinner for indicating liquor level (Fig.12).

In order to make the game entertaining, it would have been obvious to use chance devices such as spinners to indicate speed and alcohol levels as demonstrated by Burkett and MacRae.

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One of ordinary skill in art at the time the invention was made would have suggested modifying Lopez using two spinners for indicating speed and alcohol levels for making the game attractive and entertaining.

Further Burkett teaches License cards (84).

In order to make the game realistic it would have been obvious to provide license cards as demonstrated by Burkett.

One of ordinary skill in art at the time the invention was made would have suggested providing license cards for making the game realistic.

Claim 22: Start and exit spaces being the same (5).

Claim 23: Indications of stop signs (10).

Claim 24: Instructions of no-pass (65).

Claim 25: Spaces marked with R, Y and G (5:10-11).

Claim 26: Billboards (70,75).

Claim 27: Die (3:50).

Claim 30: Director space (30).

Claim 31: Rules for playing (abstract).

Claim 34: Score sheet (Fig.21).

Claim 35: Die (3:50).

Claim 37: Car icon (3:65-66).

Claim 38: Instructions of no-pass (65).

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3. Claim 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez, Burkett, macRae in view of Boofer (4067579).

Lopez teaches all limitations except that it does not teach parking spaces near start space.

Boofer teaches parking spaces near start space (25-29).

In the art area of racing games it is a normal practice to provide multiple car space for accommodating cars for all players. This practice helps identify all players participating in the race. In order to identify all players participating in the game, it would have been obvious to provide multiple car start space in the start area.

One of ordinary skill in art at the time the invention was made would have suggested providing multiple car start area for properly identifying all players participating in the race.

4. Claim 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez, Burkett, macRae in view of McDonald (4290607).

Lopez, Burkett, MacRae teach all limitations except that it does not teach a coin.

McDonald teaches providing a coin (7:20-22).

Chance devices such as dice, spinners and coins are commonly used in the art area of board games for randomly selecting events in playing the board games. Such devices are provided in the kit according to the choice of the makers of game for attracting players.

One of ordinary skill in art at the time the invention was made would have suggested providing various kinds of chance devices for attracting players.

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5. Claim 36 rejected under 35 U.S.C. 103(a) as being unpatentable over Lopez, Burkett, MacRae in view of Aharonian (4480838).

Lopez, Burkett, MacRae teach all limitations except that it does not teach die with blank face.

Aharonian teaches die with blank face (Fig.4).

Chance devices are commonly used in the art area of board games for randomly selecting events in playing the board games. Such devices are created in variations in the kit according to the choice of the makers of game for attracting players.

One of ordinary skill in art at the time the invention was made would have suggested providing various kinds of chance devices for attracting players.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 21-38 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 9/2/04 have been fully considered but they are not persuasive. Examiner takes the position that Lopez pathways do illustrate roadways (see abstract lines 8-10) and with regards to variety of cards Lopez teaches a host of cards (4:24-35). The only minor difference between applicant's cards and the cited cards are in meaning and information conveyed by the printed matter and that are not considered patentable differences Ex parte Breslow 192 USPQ 431.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vishu K Mendiratta  
Primary Examiner  
Art Unit 3711

VKM  
December 7, 2004